

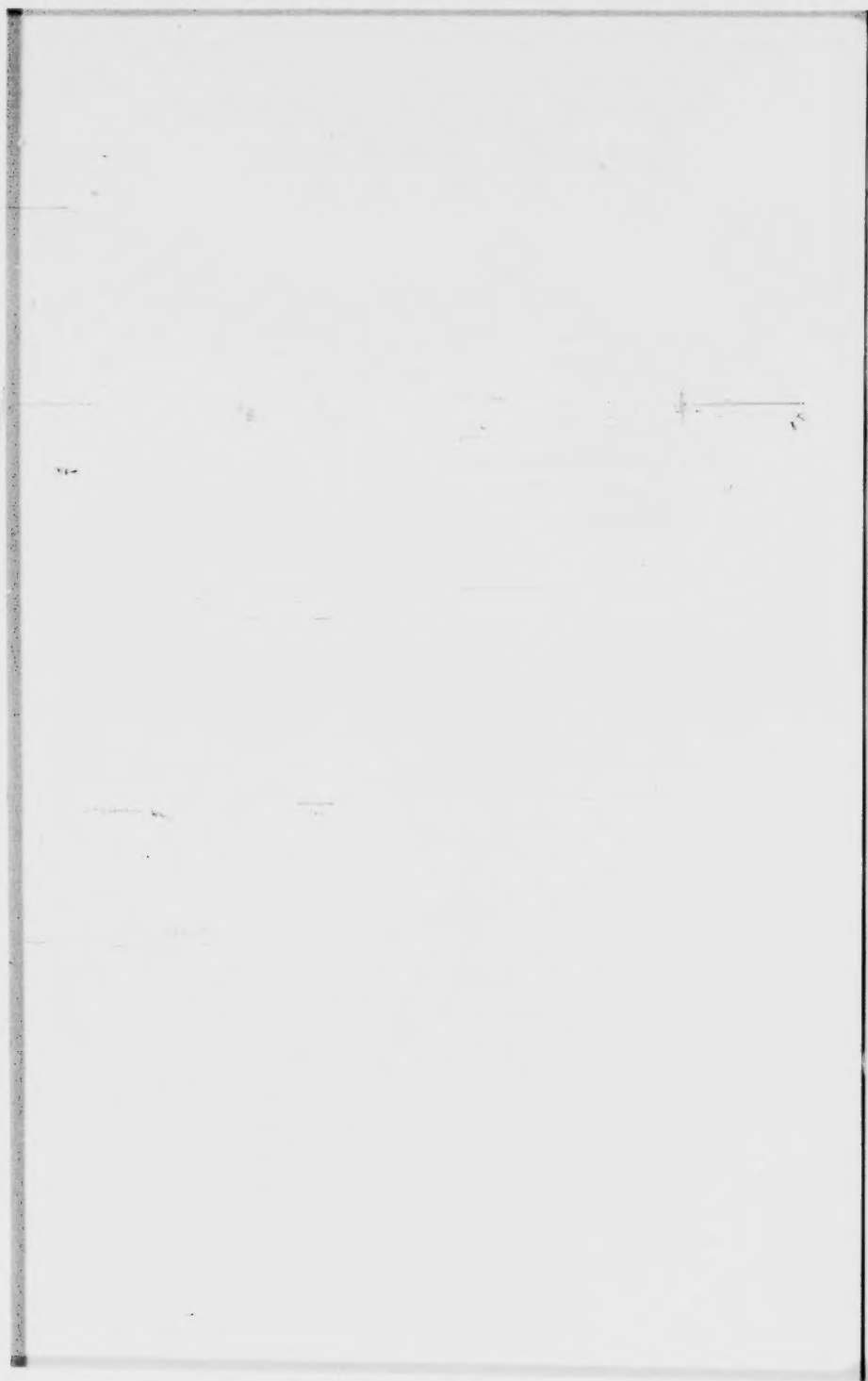
Plan of Reorganization. Certainly its operation or execution is not dependent in any degree upon whether the trustees are approved by the court or by the Commission. It can be more aptly described, so we think, as a part of the mechanics by which the Plan is to be consummated. We are of the view that this change by the court did not alter the Plan so as to require a re-reference to the Commission. In any event, it would border on the absurd, under the circumstances presented, to send this matter back to the Commission for this alleged defect which has no bearing upon the substance of the Plan or the rights of the parties. We shall not do so.

We are of the opinion that the appeals should be dismissed. In reaching this conclusion, we are not unmindful that parties are ordinarily entitled to have their cases reviewed on the merits. We are not presented, however, with an ordinary situation; in fact, it is extraordinary. The proceeding has been pending for more than nine years. As the Supreme Court in the instant case said (page 545), "We cannot conclude that in this proceeding, * * * the interests of junior claimants have been sacrificed for speed." We are satisfied, as has so often been emphasized, that the public interest requires that there be no further delay. We think the motion to dismiss should be allowed on the ground that the modified Plan conforms to the opinion and mandate of the Supreme Court, in which event there is nothing to review. However, we recognize, as our opinion indicates, the difficulty of thus limiting our discussion. In other words, it is not easy to establish the precise boundary line between that which is in compliance and that which goes beyond. However, if the latter field has been invaded, we are satisfied that it has been concerning matters which have been so firmly lodged in the informed judgment of the Commission and the District Court that neither this court nor any other reviewing court would be authorized to substitute its judgment therefor. Under such cir-

cumstances, any further review would be little more than an idle and useless ceremony. It is hardly within the range of possibility that appellants could benefit thereby. On the other hand, the delay occasioned would prove detrimental to the public interest and prolong the goal which has long been sought, that is, the final consummation of the Plan.

The appeals are

DISMISSED.



Statistics

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RECEIVED

IN THE

Supreme Court of the United States

OCTOBER TERM, 1944.

No. 907

IN THE MATTER OF

CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY,

DEBTOR.

DARRAGH A. PARK, AS CHAIRMAN OF A GROUP OF HOLDERS
OF ADJUSTMENT MORTGAGE BONDS,

Petitioner,

vs.

GROUP OF INSTITUTIONAL INVESTORS AND
MUTUAL SAVINGS BANK GROUP, AND OTHERS,

Respondents.

MOTION OF GROUP OF INSTITUTIONAL INVESTORS AND MU-
TUAL SAVINGS BANK GROUP TO CONSIDER AND ACT UPON
THE PETITION FOR CERTIORARI OF DARRAGH A. PARK
WITHOUT FURTHER PRINTING OF THE RECORD.

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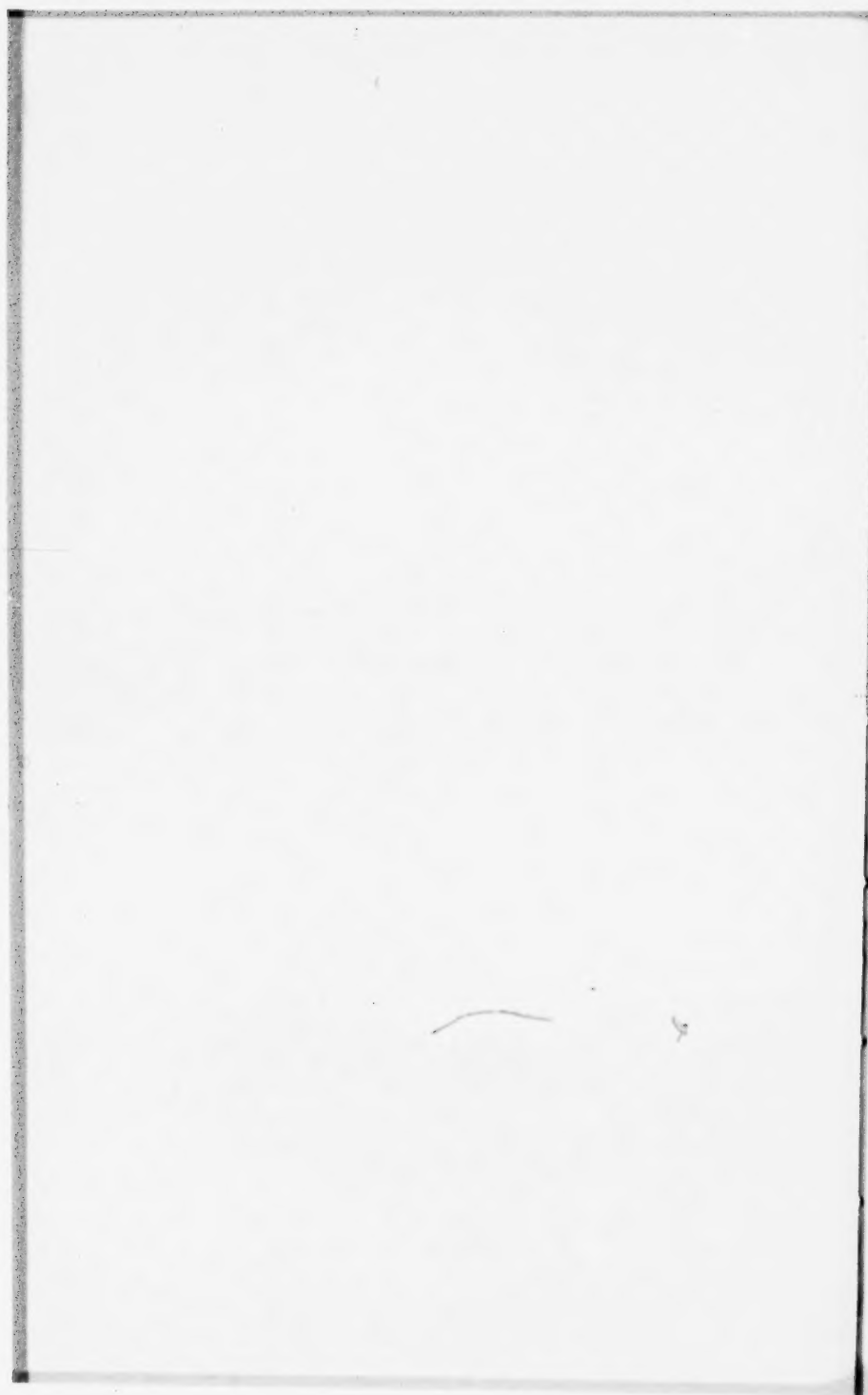
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Dated February 14, 1945.



IN THE
Supreme Court of the United States

OCTOBER TERM, 1944.

No. 907.

IN THE MATTER OF

CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY,

Debtor.

DARRAGH A. PARK, AS CHAIRMAN OF A GROUP OF HOLDERS
OF ADJUSTMENT MORTGAGE BONDS,

Petitioner,

vs.

GROUP OF INSTITUTIONAL INVESTORS AND
MUTUAL SAVINGS BANK GROUP, AND OTHERS,

Respondents.

**MOTION OF GROUP OF INSTITUTIONAL INVEST-
ORS AND MUTUAL SAVINGS BANK GROUP TO
CONSIDER AND ACT UPON THE PETITION FOR
CERTIORARI OF DARRAGH A. PARK WITHOUT
FURTHER PRINTING OF THE RECORD.**

The Group of Institutional Investors and the Mutual Savings Bank Group, respondents herein, waiving service under Paragraph 3 of Rule 38, and filing at this time their brief in opposition to the petition for certiorari of Darragh A. Park, respectfully move the Court to consider and act upon said petition for certiorari without further printing of the record.

The reports and order of the Interstate Commerce Commission, the opinion of the District Court, and the opinion of the Court of Appeals which show on their face that the Commission and the court acted in strict conformity with the opinion and mandate of this Court' already have been printed.²

The brief in opposition filed herewith by these respondents shows, we submit, that the petition for certiorari is entirely lacking in substance. Yet the petitioner is attempting to postpone printing of the transcript in order to secure the very delay in the reorganization of this railroad which he seeks to accomplish by the petition for certiorari. The petition for certiorari requests this Court to preserve the *status quo* "by abstaining from immediate action" thereon "until the Circuit Court of Appeals for the Tenth Circuit has determined the pending appeals in the proceeding for reorganization of The Denver and Rio Grande Western Railroad Company." (p. 8 of Petition for Certiorari.)

The petitioner, having secured an order postponing service until March 1, 1945, notified the respondents on February 10, 1945, that he will "apply for a further Order which shall extend the time of the Petitioner for perfecting service under Paragraph 3 of Rule 38 for a period of thirty days from and after the decision of the Circuit Court of

¹ *Group of Institutional Investors et al., v. Chicago, Milwaukee, St. Paul & Pacific Railroad Co.*, 318 U. S. 523 (March 15, 1943).

² The Second Supplemental Report of the Interstate Commerce Commission dated December 6, 1943 is reported in 254 I. C. C. 707; the Third Supplemental Report and Order of the Interstate Commerce Commission dated April 10, 1944 is reported in 257 I. C. C. 223; we are advised that the printed proof of the opinion of the District Court dated June 22, 1944 is being checked for typographical mistakes by West Publishing Co. and that the opinion will appear in a forthcoming advance sheet of the Federal Supplement reports; and the opinion of the Circuit Court of Appeals dated October 31, 1944 is reported in 145 Fed. (2d) 299 (advance sheet for December 25, 1944). Printed copies of all of these documents are contained in the transcript of the proceedings below which has been filed in this Court.

Appeals in the Tenth Circuit from the order approving and confirming the Commission's Plan for the reorganization of The Denver and Rio Grande Western Railroad Company."

These respondents therefore move the Court to consider and act upon the petition for certiorari without further printing of the record.

Respectfully submitted,

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